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Attorneys for Official Committee of Unsecured Creditors

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

In re	)	Case No. <u>08-13249-LA11</u>
	)	
BARRATT AMERICAN	)	[Jointly Administered with Case Nos.
INCORPORATED,	)	08-13254-LA11; 08-13259-LA11; and
a Delaware corporation; and its	)	08-13264-LA11]
jointly administered entities,	)	
	)	Chapter 11 Proceeding
Debtors and	)	
Debtors-in-Possession	)	<b>MOTION OF THE OFFICIAL</b>
	)	<b>COMMITTEE OF UNSECURED</b>
	)	<b>CREDITORS TO CONVERT</b>
	)	<b>CASES TO CHAPTER 7</b>
Affects:	)	
<input checked="" type="checkbox"/> All Debtors	)	Date: May 28, 2009
<input type="checkbox"/> Barratt American Incorporated	)	Time: 2:30 p.m.
<input type="checkbox"/> Barratt Investments Incorporated	)	Dept: Two, Rm. 118
<input type="checkbox"/> Barratt USA Holdings, Inc.	)	Judge: Hon. Louise DeCarl Adler
<input type="checkbox"/> BAMC Mortgage Company	)	

**TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on May 28, 2009, at 2:30 p.m., or as soon thereafter as the matter may be heard, the Official Committee of Unsecured Creditors (the "Committee") will and does hereby move the Court for an order converting the jointly administered chapter 11 cases (the "Cases") of Barratt American Incorporated ("Barratt American"), Barratt Investments Incorporated ("Barratt Investments"), Barratt USA Holdings, Inc. ("Barratt USA") and BAMC Mortgage Company ("BAMC"), together hereinafter collectively called the "Debtors," to cases under chapter 7 of Title 11, United States Code (the "Code"), on the grounds that cause exists

1 within the meaning of § 1112(b) of the Code.

2 First, the Debtors have acted in bad faith. Debtors have failed to disclose and to obtain  
3 Court approval for payments of insider compensation contrary to the Local Rules of the Court and  
4 the United States Trustee Guidelines. They have paid pre-petition debt without Court  
5 authorization, and have engaged in post-petition borrowing and/or transfers without Court  
6 approval. They have failed to voluntarily, timely and candidly schedule and disclose assets which  
7 are property of their bankruptcy estates and other financial information. They have failed to  
8 timely and accurately provide the Committee with financial information.

9 Second, there has been a continuing loss to and diminution of the estate. Among other  
10 things, this loss has been the result of unauthorized Debtor payments referred to above. It has also  
11 been caused by unreasonably high staffing levels and unreasonably high and unapproved insider  
12 compensation. Further, Debtors are operating post-petition at a steadily increasing cumulative net  
13 loss.

14 Third, although the Cases have been pending for four months, Debtors have failed to  
15 propose any disclosure statement or plan of reorganization pursuant to § 1112(b)(4) of the Code.  
16 Reorganization under chapter 11 would be objectively futile under the circumstances since all new  
17 home building and sales operations have ceased and there is no going-concern value to preserve.

18 In light of the foregoing and the matters set forth in the pleadings filed and served  
19 herewith, conversion would be in the best interests of the creditors of these estates.

20 The Motion is supported by the concurrently filed Notice of Hearing and Motion, by the  
21 memorandum of points and authorities, the supporting declaration of Timothy J. Truxaw, attached  
22 exhibits, and the request for judicial notice filed and served herewith, together with all pleadings  
23 and papers on file in these jointly administered Cases, and upon such other oral and written  
24 evidence as may be submitted to the Court at or prior to the hearing on the Motion.

25 Dated: April 22, 2009

SLATER & TRUXAW, LLP

26  
27 By: /s/ Gary E. Slater  
Gary E. Slater  
28 Attorneys for the Official  
Committee of Unsecured Creditors